IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 522 (S/S) of 2003
(Old No. 8643 of 1993)

1. Mahipal Singh
   S/o Sri Mukhram Singh
   Pithoragarh, U.P.
   Local Address:-
   Village & P. O. Himpurdapa
   Tehsil Chandpur.
   District Bijnore.
2. Ram Nath Yadav
   S/o Sri Kallo Singh
   Pithoragarh, U.P.
   Local Address:-
   Village Phondapur
   P.O. Karaundi
   Tehsil Amroha
   District Moradabad.
3. Harendara Singh
   S/o Sri Ram Kumar Singh
   Pithoragarh, U.P.
   Local Address:-
   Village Sadarpur
   P.O. Piplidaud
   Tehsil Dhonora
   District Moradabad.
4. Randheer Singh
   S/o Sri Shiv Charan Singh
   Pithoragarh, U.P.
   Local Address:-
   Village Casamsarai
   P.O. Ahrola Maphi
   Tehsil Dhanora
   District Moradabad.

…… Petitioners.

Versus

1. State of U.P.
   Through the Home Secretary, U.P.
   Vidhan Bhawan, Lucknow.

2. Director General of Police
Uttar Pradesh
Lucknow
3. Superintendent of Police
Pithoragarh, U.P.

……Respondents.

Shri A.K. Joshi, learned counsel for the petitioners.
Shri N.P. Sah, learned Standing Counsel and Shri Sudhir Kumar, Brief holder for the respondents.

Hon'ble Prafulla C.Pant,J.

By means of this writ petition, the petitioners have sought following reliefs:-

(1) That a writ in the nature of certiorari, like order or direction be issued to the respondents to produce the order of cancellation of the appointment of the petitioners before this Court and the same be quashed as no written orders have been supplied to the petitioners on repeated demands.

(2) That a writ in the nature of mandamus, like order a direction be issued to the respondent directing them to permit the petitioners to continue for training on the post of Constable in the State of Uttar Pradesh, as per result declared by the Superintendent of Police, Pithoragarh, by his order dated 26th of January 1993.

(3) That any other relief this Hon'ble Court deems fit and proper in the

circumstances of the case be granted to the petitioners.

(4) That costs of this petition be awarded to the petitioners as against the respondents

2. Heard learned counsel for the parties.

3. Brief facts of the case, as narrated in the writ petition are that petitioners participated in recruitment process in 1993, for the post of Constables in Civil Police in District Pithoragarh. It is pleaded that they appeared for physical test, written test and also for interview. The result of the recruitment process was declared in January 1993. It is further stated in the writ petition that the petitioners were asked to go for the training w.e.f. 01.03.1993. However, on that very day, a wireless message was received from the Government of U.P., cancelling the recruitment process. The petitioner's allegation is that they were not served with any order of cancellation of their appointment. It is further stated in the writ petition that no opportunity of ding heard was given to the petitioners before the cancellation of their selection. Hence this writ petition was filed before Allahabad High Court in the year 1993. (This writ petition is received by transfer

to this Court under Section 35 of U.P. Reorganisation Act, 2000, for its disposal.

4. Vide interim orders dated 27.08.1993 and 22.12.1993, passed by Allahabad High Court, the petitioners were allowed to undergo training, Learned counsel for the petitioners states that since then the petitioners (except one) are in services for last thirteen years.

5. No counter affidavit giving parawise reply, filed on behalf of petitioners even after being given several opportunities. However, four counter affidavits in all (including two short counter affidavits) were filed with regard to the compliance of interim orders. One counter affidavit is filed by respondent No. 3 in which it is admitted that a selection process took place at Pithoragarh for recruitment of 25 Constables. It is also stated in the counter affidavit that selection process was completed on 26.01.1993 and the list of the selected candidates was sent to U.P. Police Headquarters, Allahabad, vide letter No. ten-5.-92 (2) dated 22.02.1993. It is further stated in this counter affidavit that a radiogram No. 1223/six-P-1-93 dated 01.03.1993, was received at Pithoragarh, in pursuance to which the selected recruits were not sent for training. In para-6 of the counter affidavit of respondent No. 3, it is stated that the reason for cancellation

of the recruitment process is not known to the deponent.

6. In the counter affidavit, filed on behalf of respondent No. 1, by Surendra Mohan, the then Principal Secretary, Home, Government of U.P., It is stated that the interim order passed by High Court has been complied with.

7. There is yet another counter affidavit filed on behalf of respondent No. 2 by Ved Prakash Kapur, the then Director General of Police, State of U.P. in which it has not been denied that 25 candidates were recruited as Constables in District Pithoragarh. On receiving radiogram No. 1223 dated 01.03.1993, by which selection was cancelled, the petitioners were among the 25 candidates, who were not sent for training. In this counter affidavit, it has further been stated that a representation of the petitioners was received in the office of the deponent on 13.01.1994, which was forwarded to the Government. Thereafter in obedience of the direction of the High Court, the petitioners were enlisted as Constables and were allowed to join training w.e.f. 01.03.1994.

8. Having heard learned counsel for the parties and after going through the affidavits, counter affidavits, filed by the parties, it is

established that a selection process took place of recruitment of 25 police constables at Pithoragarh and petitioners were among the selected candidates. It is also not disputed that through a radiogram No. 1223 dated 01.03.1993, the recruitment process was cancelled. The aforesaid radiogram is being reproduced below:-

"*GOVERNMENT HAS DECIDED TO CANCEL ALL THE RECRUITMENT PROCEEDINGS FOR CONSTABLES HELD BETWEEN 7TH TO THE 26TH JANUARY 1979 AT PITHORAGH (0) TAKE FOLLOW UP ACTION IN THIS REGARD (0) SINGAL COMPLICANCE (0).*"

The aforesaid radiogram appears to have been sent by Joint Secretary, Home, Government of U.P. No. reason has been assigned in the aforesaid wireless message why the selection process is cancelled. At least in the counter affidavit the respondents should have disclosed the reason why the selection of the petitioners was cancelled by aforesaid wireless message. No reason what so ever has been mentioned by the authorities, who filed their counter affidavits before Allahabad High Court in this writ petition. Nay not only this, in the counter affidavit of respondent No.3, it is specifically admitted that even he is not aware of the reasons why the recruitment is cancelled. In these

circumstances, when the petitioners have already underwent almost 13 years of services in the police department and the respondents have not come up with a case why the petitioners selection is cancelled, this Court has no option but to allow the writ petition, seeking quashing of the cancellation of the selection process.

9. Therefore, accordingly, this writ petition is allowed. The impugned order canceling the selection process to the extent of the petitioners, is hereby quashed.

Dt.09.10.2007 **(Prafulla C.Pant. J.)**

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